

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

STACEY L. HEMPHILL,	)	
	)	
Petitioner,	)	
	)	
vs.	)	NO. CIV-09-0475-HE
	)	
JUSTIN JONES, ET AL.,	)	
	)	
Respondent.	)	

**ORDER**

Petitioner Stacey L. Hemphill, a state prisoner appearing pro se, brings this actions pursuant to 28 U.S.C. § 2241 seeking a writ of habeas corpus. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Doyle W. Argo. Judge Argo has recommended that the petition be dismissed without prejudice as duplicative of Case No. CIV-09-0120-HE. Petitioner, by failing to object to the Report and Recommendation has waived his right to appellate review of the suggested dismissal. United States v. 2121 East 30th Street, 73 F.3d 1057, 1059-60 (10th Cir. 1996). After de novo review, the court concurs with the Magistrate Judge that the petition is duplicative of the prior filed case.<sup>1</sup>


Accordingly, the court **ADOPTS** the Report and Recommendation [Doc. #5] and **DISMISSES** the petition without prejudice.

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<sup>1</sup>*In Case No. CIV-09-0120-HE, Magistrate Judge Robert E. Bacharach has sua sponte extended petitioner's deadline to file an amended petition until June 10, 2009. If petitioner intends this petition to be his amended petition in CIV-09-0120-HE, he is instructed to file it appropriately in that case.*

**IT IS SO ORDERED.**

Dated this 1<sup>st</sup> day of June, 2009.



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JOE HEATON  
UNITED STATES DISTRICT JUDGE